

REMARKS

Responsive to the Notice of Non-Compliant Amendment dated July 5, 2005, Applicants present a revised Amendment in Response to the Office Action dated January 11, 2005. In the Notice, it is asserted that that "the amendment adds further limitations to claims that have been withdrawn from consideration such as claim 43." The Notice further asserts that claims other than elected claims 21, 23-25, 27-32, 39-40, and 47-58 should have ~~—(withdrawn)—~~ inserted after the claim to be in compliance with current rules regarding amendments. The Notice still further asserts that claim 39 should also be withdrawn from consideration since "limitations from the first embodiment of Figs. 2-4 are listed such as the eccentric member being mounted in the longitudinally extending channel of the rod portion". Applicants have indicated claims 20, 29-34, 39, 42, and 43-46 as being withdrawn.

Applicants thank the Examiner for the courtesy of an in-person interview which was held on March 28, 2005. Although no agreement was reached as to the patentability of the previously presented claims, Applicants' representative and the Examiner did discuss the invention and how that invention differed from the cited prior art. A discussion was further held as to certain claim language which would assist in differentiating the invention from the prior art. The discussions with the Examiner further concerned how the pending claims were supported by the specification. It is believed that agreement on this point was reached with the Examiner and a withdrawal of the Section 112 rejection would be considered.

Applicants first request that the Examiner withdraw the previously issued restriction and reinstate claims 20, 29-34, 39 and 42. In this regard, Applicants representative discussed with the Examiner during the interview that these claims are directed to subject matter previously indicated by the Examiner to be allowable. That subject matter relates to a configuration of the invention wherein the vibration inducing eccentric is positioned within the axially extending hollow cavity of the rod portion (see, for example, claim 29). Notably, this feature was one of the features discussed with the Examiner during the interview which differentiates Applicants' product from the prior art. For similar reasons, Applicants respectfully submit that claims 43-46 are also directed to subject matter previously indicated by the Examiner to be allowable. Reconsideration and allowance of these claims is accordingly requested.

Next, Applicants address the Examiner's Section 112 rejection. The Examiner has asserted that the specification fails to teach a vibrating assembly in the handle which includes a motor, rotating shaft and eccentric as claimed. Applicants disagree. During the interview, Applicants' representative pointed out to the Examiner that the detailed construction of the vibrating assembly (motor, batteries, shaft) was provided in connection with the description of the first embodiment. The various embodiments disclosed differed from each other, in part, based on the location of the eccentric for inducing vibration, but nonetheless, each vibration assembly, regardless of embodiment, comprised the same exemplary physical components (e.g., motor, batteries, shaft) as disclosed in the specification. As such, although the drawing for the second embodiment did not explicitly illustrate those physical components, that vibration assembly configuration is disclosed by the specification from the first embodiment and would be understood by one skilled in the art from reading the entire specification in context with the drawings to apply to all embodiments. Support for the foregoing may be found, for example, in the specification at page 9, lines 17 and 29, Figure 4, page 11, lines 9-15 and Figures 5 and 6. Withdrawal of the Section 112 rejection is thus requested.

Lastly, Applicants address the prior art rejection of claims 21, 23, 24, 25, 27, 28, 40, 43 and 46-58 in view of Sheperd and Yankaitis.

During the interview, Applicants' representative discussed the nature of operation for the Sheperd reference. It is believed that the Examiner may have misunderstood how the reference operated. In this regard, Applicants' representative pointed out that the fishing line in Sheperd is driven by the motor and essentially spins inside a channel of the pole. This spinning action on the line imparts a spinning motion on the end of the line and thus causes a lure attached to the end of the line to "swim" so as to attract a fish. Thus, the motor in Sheperd physically actuates and moves the fishing line. The operation for having the motor assembly act on and move the fishing line is a characteristic of Sheperd that is shared in common with Yankaitis. The Yankaitis reference teaches having the motor rotate a reciprocating arm to pull and push on the fishing line so as to cause a jigging action with respect to the lure. Again, the prior art teaches an operation wherein the motor assembly physically actuates and moves the fishing line.

Claim 21 has been amended to recite that the rod portion includes eyelets for use in supporting a fishing line and that the vibrating assembly is not physically connected to the supported fishing line. These amendments were conceptually discussed with the Examiner during the Examiner interview. It is asserted that the cited prior art (Sheperd and Yankaitis) solely teaches having the motor assembly be physically connected to the fishing line so as to actuate or cause movement of that line. There is no teaching or suggestion in Sheperd or Yankaitis for the invention as now claimed wherein the vibrating assembly is not physically connected to the supported fishing line.

Claim 25 has been amended to recite that the vibrating assembly does not directly actuate any a fishing line which is supported by the fishing pole. Again, this amendment was conceptually discussed with the Examiner during the interview. The cited prior art teaches motor driven assemblies which directly actuate (through spinning or pushing/pulling) the fishing line. The claimed vibration assembly does not require direct actuation and thus differs from the teachings of the prior art.

Claims 40 has been amended to recite a plurality of spaced-apart eyelets being mounted on said rod portion for supporting a fishing line and a vibrating assembly that does not include means for causing movement of the supported fishing line. For at least the same reasons as those presented above, claim 40 is believed to distinguish over the cited art. The prior art clearly discloses the use of means for causing movement of the line (e.g., spinning the line, or pushing/pulling the line).

It is further asserted that pending claim 43 should be indicated as allowable because it recites that the “eccentric member engages an interior surface of the hollow cavity of the rod portion to induce vibratory movement of the rod portion.” There is no teaching or suggestion in the prior art for this feature of rod portion interior surface engagement with respect to the eccentric.

Claim 47 has been amended to recite a tip end including at least one eyelet for supporting a fishing line and a vibrating assembly that does not itself physically touch or move the supported fishing line. Again, this amendment was conceptually discussed with the Examiner during the interview. It is asserted that the cited prior art (Sheperd and Yankaitis)

solely teaches having the motor assembly physically touch and move the fishing line. There is no teaching or suggestion in Sheperd or Yankaitis for the invention as now claimed wherein the vibrating assembly that does not itself physically touch or move the supported fishing line.

Claim 51 has been amended to recite that the eccentric member does not include means for making physical contact with the fishing line for the purpose of moving the fishing line. This limitation distinguishes over the cited art because Yankaitis clearly teaches having its eccentric assembly (44, 46 and 48) possess a touching connection (push/pull) with the fishing line for purposes of inducing a jigging motion or movement on the line. The prior art according fails to teach vibrating without the use of means for contacting and moving the fishing line.

Applicants further note from a review of the prior art of record that the features of claims 55-58 are neither taught nor suggested by the prior art of record.

In view of the foregoing, Applicants believe the pending application is in condition for allowance.

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Respectfully submitted,

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